

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
TYLER DIVISION**

UNITED STATES OF AMERICA

v.

No. 6:22-CR-00003-JDK-JDL

SUSAN L. HERTZBERG (1)  
MATTHEW JOHN THEILER (2)  
DAVID KRAUS (3)  
THOMAS GRAY HARDAWAY (4)  
JEFFREY PAUL MADISON (5)

**JOINT MOTION TO SET BRIEFING SCHEDULE FOR POST-JUDGMENT MOTIONS**

Defendants Susan L. Hertzberg, Matthew John Theiler, David Weldon Kraus, Thomas Gray Hardaway, and Jeffrey Paul Madison and the Government jointly move this Court under Federal Rule of Criminal Procedure 45(b) to extend the filing deadlines for motions for judgment of acquittal and for a new trial by 60 days. The parties have conferred and respectfully request the Court orders the following briefing schedule: (1) Defendants' post-judgment motions will be due on Monday, February 12, 2024; (2) the Government's responses will be due on Friday, April 12, 2024; and (3) Defendants' replies will be due on Monday, May 13, 2024. The parties would show the Honorable Court as follows:

1. On November 30, 2023, the jury convicted Defendants on Count 1 of the indictment. *See* ECF No. 1020. The trial lasted approximately seven weeks, and the trial transcript spans over 6,200 pages.
2. The undersigned defense counsel have been retained to assist Defendants in preparing post-verdict motions for judgment of acquittal or motions for new trial. These motions are due

currently on Thursday, December 14, 2023. *See* Fed. R. Crim. P. 29(c)(1); Fed. R. Crim. P. 33(b)(2).

3. Federal Rule of Criminal Procedure 45 permits this Court to extend these deadlines on a party's motion showing good cause. Fed. R. Crim. P. 45(b)(1).
4. The undersigned defense counsel request that this Court extend the filing deadline for motions for judgment of acquittal or motions for new trial by 60 days. The new filing date would be February 12, 2023.
5. As good cause, defense counsel notes that this extension would help to ensure that counsel have time to review the reporter's records and extensive trial testimony so that they may research and prepare briefing regarding issues to raise on behalf of the defendants. This request is not made for delay, but so that counsel can ensure they have provided the defendants with effective assistance of counsel.
6. Defense counsel conferred with the Government, which does not oppose this motion. The parties request that the Government be provided 60 days to respond to Defendants' motions and that the Defendants be given 31 days to reply to the Government's response.

Defendants respectfully request that the Court extend the filing deadline for motions for judgment of acquittal or motions for new trial by 60 days. The new filing deadline for post-judgment motions would be Monday, February 12, 2024. The Government's response deadline would be Friday, April 12, 2024, and the Defendants' reply deadline would be Monday, May 13, 2024.

Dated: December 6, 2023

Respectfully submitted,

By: /s/ David Bitkower

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**CERTIFICATE OF CONFERENCE**

I certify that on December 5, 2023, I conferred with Adrian Garcia, lead counsel for the government in this case, regarding the requested relief. The government has agreed upon the relief sought in this motion.

/s/ Jason D. Cassel  
Jason D. Cassel

**CERTIFICATE OF SERVICE**

I certify that on December 6, 2023, I electronically filed the foregoing with the Clerk of the Court by using the CM/ECF system. I further certify that a true copy of the foregoing was furnished by CM/ECF to all counsel of record.

/s/ David Bitkower  
David Bitkower